UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

GENERAL MOTORS, LLC

and Case 07-CA-53570

MICHAEL ANTHONY HENSON, An Individual

Linda R. Hammell, Esq., for the Acting General Counsel.
Onika C. Celestine, Esq. (General Motors, LLC),
of Detroit, Michigan), for the Respondent.

DECISION AND ORDER

STATEMENT OF THE CASE

IRA SANDRON, Administrative Law Judge. This case arises out of an amended complaint and notice of hearing issued on February 7, 2012, stemming from charges filed by Michael A. Henson, an individual, against General Motors, LLC (GM or the Respondent). I held a trial in Detroit, Michigan, on March 15, 2012, at which I afforded the parties full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence.

Issue

The Acting General Counsel alleges that the following portions of GM's social media policy (the policy) violate Section 8(a)(1) of the National Labor Relations Act (the Act) because they are facially overbroad and would reasonably be construed by employees to prohibit the exercise of their Section 7 rights:

> Use Good Judgment About What You Share And How You Share
>
> . . . be sure that your posts are completely accurate and not misleading and that they do not reveal non-public company information on any public site . . . . Non-public company information includes:

- Any topic related to the financial performance of the company;. . . .
- Information that has not already been disclosed by authorized persons in a public form; and
- Personal Information about another GM employee, such as his or her . . . performance, compensation. . . .

When in doubt about whether the information you are considering sharing falls into one of the above categories, DO NOT POST. Check with GM Communications or GM legal to see if it's a good idea. Failure to stay within these guidelines may lead to disciplinary action.

. . .

- . . . obtain permission, when quoting someone else. Make sure that any photos, music, video or other content you are sharing is legally shareable or that you have the owner's permission.
- Get permission before posting photos, video [sic], quotes or personal information of anyone other than you online….
- Do not incorporate GM logos, trademarks…in your posts.

Treat Everyone With Respect

. . . Offensive, demeaning, abusive or inappropriate remarks are as out-off-place online as they are offline. . . .

Personal References on Social Media Sites

. . . Think carefully about "friending" coworkers . . . on external social media sites. Communications with co-workers on such sites that would be inappropriate in the workplace are also inappropriate on-line . . .

Internal Social Media

. . .

- Report any unusual or inappropriate internal social media activity to the system administrator . . .

The Acting General Counsel does not assert that GM promulgated any of its social media provisions because of an illegal motive or has applied them in violation of employees' Section 7 rights.

Witnesses and Credibility

The facts are undisputed in this case, and resolution of the issues hinges on legal analysis, not credibility resolution.

The witnesses were GM headquarters' management representatives, David Elliott, labor relations director for North America; Timothy Gorbatoff, chief trademark counsel; Mary Henige, director of social media and digital communications; Kristine Raad, manager of global security compliance; and Sharon Ridgell, senior policy consultant.

Facts

Based on the entire record, including testimony and my observations of witness demeanor, documents, and stipulations, as well as the posttrial briefs that the General Counsel and the Respondent filed, I find the following

Exhibit A to the complaint[1] is the entire policy, which is three pages long. The first paragraph reads:

> This Social Media Policy can be summarized as "New Tools, Old Rules," since it is in reality a summary of existing GM policies and how they apply to GM employees and representatives (agencies, contract and fee-for-service workers) who participate in social media. See the Corporate Policy Manual for all GM Policies.

The last paragraph states in relevant part: "GM's Social Media Policy will be administered in compliance with applicable laws and regulations (including Sec 7 of the National Labor Relations Act). . . ."

The full bullet point relating to logos and trademarks reads:

> Do not incorporate GM logs, trademarks or other assets in your posts. (It's okay to refer others to GM's official sites, however, especially if you want to clear up misconceptions you discover on the web.)

The policy went into effect in January 2011 and was circulated by email to salaried employees, who were to distribute it to their employees; posting on GM's intranet site to which all employees have access; and publication in the Company's daily e-newsletter, which is accessible to anyone having internet access.

The policy is global, covers all forms of electronic and digital social media, and applies to all GM employees and representatives, including contractors. GM defines social media as anything that occurs on the social web, including GM band channels on Facebook, its two company blogs (Fast Lane and Faces of GM), Facebook, Google, Twitter, You Tube, blogs, and forums. It does not cover email in general. Henige testified that it does cover employees' complaints to supervisors and/or management posted on social media sites.

GM's Facebook and Twitter accounts are not restricted to employees but are publicly accessible to anyone, anywhere. Car enthusiasts, reporters, and people who do not like GM are examples of persons who may post on them.

[1] GC Exh, 1(h).

GM has an internal blogging site or overdrive through Social Cast, which is very similar to Facebook. About 20,000 employees utilize it. There are about 400 public groups, open to all employees, which concern recreational or nonwork-related activities or matters pertaining to a group of employees that transcends a particular location or type of work, such as newer professionals.[2] Workplace of choice is one such group. Anybody signed up on the overdrive can access a public group. In addition, there also are about 300 private groups, which are geared to the work of a specific workgroup. On the blogs, employees can voice questions, concerns, or comments about GM, and they most commonly address benefits. Posts are maintained on the server, and Henige and her office can retrieve posts from the overdrive.

Attorney Gorbatoff's responsibilities include maintaining and protecting GM's trademarks and copyrights worldwide. Copyrights encompass such tangible items as photographs, manuals, and trade secrets. Gorbatoff testified that the main concern of the policy as it pertains to trademarks and copyrights is to protect the public (the consumers) from being confused and mistakenly believing that a posted communication is an official one from GM rather than from some independent entity. GM does permit descriptive use of the logo that will not confuse people into believing that they come from GM.

In the United States, the United Automobile Workers (UAW) represents approximately 50,000 GM employees at approximately 50 locations.

Legal Analysis and Conclusions

No Board precedent directly addresses Section 8(a)(1) in the context of social media. In 8(a)(1) cases in general, the Board's task is to determine how a reasonable employee would interpret the action or statement of the employer and whether the conduct would reasonably tend to interfere with, threaten, or coerce employees in the exercise of their Section 7 rights, taking into account the surrounding circumstances. *The Roomstore,* 357 NLRB No. 143, slip op. at 1 fn. 2 (2011); *Lutheran Heritage Village-Livonia,* 343 NLRB 646, 646 (2004). Thus, the standard is an objective one.

Improper motive is not a necessary element of an 8(a)(1) violation. *Tenneco Automotive, Inc.,* 357 NLRB No. 84 slip op. at 7 (2011); *Windsor Convalescent Center of North Long Beach,* 351 NLRB 975, 987 (2007), enf. denied on other grounds 570 F.3d 354 (D.C. Cir. 2009).

These principles apply when it comes to determining whether an employer's work rule violates Section 8(a)(1). See *Lafayette Park Hotel*, 326 NLRB 824, 825 (1998), enfd. 203 F.3d 52 (D.C. Cir. 1999). As the board explained in *Lutheran Heritage Village,* id. at 647, an employer's rule contravenes the Act if it explicitly restricts protected activity or if (1) employees would reasonably construe the language to prohibit Section 7 activity; (2) the rule was promulgated in response to union activity; or (3) the rule has been applied to restrict the exercise of Section 7 rights. As I earlier noted, the Acting General Counsel here relies solely on the first theory. The Board further said, id. at 646, that it must give a rule a reasonable reading, refrain from reading particular phrases in isolation, and not presume improper interference with employee rights.

[2] See R. Exh. 1, as an example.

Another applicable precept is that the risk of ambiguity is held against the employer-promulgator of the rule rather than against the employees who are supposed to abide by it. *Norris/O'Bannon, Dover Resources Co.,* 307 NLRB 1236, 1245(1992); *Paceco,* 237 NLRB 399, 399 fn. 8 (1978).

I now turn to specific provisions of the policy alleged to be unlawful.

I. Use Good Judgment about What You Share and How You Share

This provision prohibits employees from revealing nonpublic company information on any public site, including "any topic related to the financial performance of the company, information that has not already been disclosed by authorized persons in a public forum, and personal information about other GM employees such as his or her . . . performance, compensation, or status in the company." Several aspects of this provision raise concerns of interference with employees' Section 7 rights.

First, confidentiality policies may chill employees' exercise of protected activities; the central question is whether employees would reasonably read a rule on confidentiality as prohibiting a discussion of wages and working conditions, or would reasonably understand the rule to protect the employer's legitimate interest in the confidentiality of its private information. *LaFayette Park,* 326 NLRB 824, 827 (1998); see also *Double Eagle Hotel & Casino*, 341 NLRB 112, 115 (2004).

In *Security Walls*, 356 NLRB No. 87 (2011), the policy prohibited employees from disclosing information concerning "payroll or personnel records of past or present employees, financial records of the Company. . . . and documents concerning operating procedures of the company. . . All . . . requests for information about current or former employees should be immediately directed to . . . management." The Board found this policy overly broad because it would reasonably be interpreted by employees to restrict discussion on salary, benefits, promotions, disciplinary actions, and thus employees would reasonably construe the language to prohibit Section 7 activity.

Here, employees would reasonably read some of this language as prohibiting protected employee communications about terms and conditions of employment, because it expressly prohibits employees from discussing online coworkers' wages and other compensation, as well as working conditions. See *Cintas Corp.,* 344 NLRB 943, 943 (2005), enfd. 482 F.3d 463 (D.C. Cir. 2007); *Kinder-Care Learning Centers,* 299 NLRB 1171, 1171–1172 (1990).

Second, the policy requires that posts be "completely accurate" and "not misleading." However, the fact that Section 7 communications are false, misleading, or inaccurate does not per se strip them of the Act's protection. *Mastec Advanced Technologies,* 357 NLRB No. 17, slip op. at 6 (2011); *Sprint / United Management Co.,* 339 NLRB 1012, 1018 (2003). Rather, they lose protection only if there is a specific finding of reckless or deliberate falsity. *Mastec,* ibid; *TNT Logistics North America, Inc.,* 347 NLRB 568, 569 (2006), revd. sub nom. 513 F.3d 600 (6th Cir. 2008). The rule, therefore, is over reaching and places an unlawful restriction on employees' exercise of Section 7 rights.

Third, there is the provision directing employees to check with the Company if they are in doubt about whether information falls in one of the enumerated categories. This can reasonably be read to require employees to secure permission before they engage in Section 7 activities and is therefore unlawful. See *TeleTech Holdings, Inc.,* 333 NLRB 402, 403 (2001); *Brunswick Corp.,* 282 NLRB 794, 795 (1987).

Fourth, the Acting General Counsel argues that the rule prohibiting employees from using photos, music, video, quotes, or personal information in online communications without the express permission of the maker is overly broad, because employees could reasonably construe it as impinging on their Section 7 rights, e.g., handbilling activity, statements in union literature, or comments by supervisors. Counsel for the Acting General Counsel cites no cases directly on point, nor can I find one, but I agree with the logic of her position and find this to be another defect in the rule.

In this regard, I note *Labinal, Inc.,* 2003 WL 21466432 at (2004). Although the decision is not precedential, I find persuasive Judge John West's reasoning in finding invalid a rule requiring employees to obtain the permission of coemployees before disclosing their pay information to others. He pointed out that the respondent had not established a substantial and legitimate business justification for the policy. Nor has GM.

For the above reasons, I conclude that the portions of this section in question violate Section 8(a)(1).

Finally, restrictions on the use of the GM logo require analysis. The rule states that employees should not "incorporate GM logos, trademarks, or other assets in [their] posts."

Section 32 of the Lanham Act imposes liability for trademark infringement on any person who, without the consent of the owner of the trademark, uses it for any number of enumerated commercial purposes.[3] On the other hand, if the use of the trademark is for expressive purposes, i.e., to communicate an idea, such as commentary, comedy, parody, news reporting or criticism, it is considered noncommercial and falls within the protections of the First amendment. See Gilston, Trademark Protection and Practice (Bender 2005), Section 11.08[4][l][i]; and *CPC International v. Skippy, Inc.,* 214 F.3d 456, 461–463 (4th Cir. 2000). Here, though, the issue before me is not the constitutionality of the restriction but whether it would reasonably lead employees to believe that it interferes with their Section 7 rights.

The situation here is somewhat atypical in that the large majority of Board cases dealing with prohibitions against wearing logos involve employees wearing union logos or other insignia. Precedent on this subject is therefore scant, making it a rather novel issue.

Employees do have a Section 7 right to use their employer's name or logo in conjunction with protected concerted activity, such as to communicate to fellow employees or the public about a labor dispute. Indeed, in 8(b)(4)(B) cases, picket signs must adequately identify the primary employer. See, e.g., *, Meat & Allied Food Workers Local 248 ,* 230 NLRB 189, 189 (1977).

[3] See 15 U.S.C. § 1114(a).

Counsel for the Acting General Counsel cites (Br. 18–19) *Pepsi-Cola Bottling Co.,* 301 NLRB 1008, 1019–1020 (1991), enfd. 953 F.2d 638 (4th Cir. 1992), in which the employer's policy of forbidding employees to wear their uniforms or other company logos while engaging in union activity outside of the plant during nonworking time was found to be an excessive impediment to union activity, since the company had not provided any business reason outweighing the Section 7 rights of employees. By logical extension, *Pepsi-Cola* could be read to prohibit employers from promulgating policies that restrict employees' use of company logos while engaging in protected concerted activity on social media sites, absent compelling justification.

However, counsel for the Acting General Counsel neglects to cite *Flamingo Hilton-Laughlin*, 330 NLRB 287 (1999), a later case that distinguished *Pepsi-Cola* and reached an opposite result on point. In *Flamingo-Hilton-Laughlin,* the Board upheld an administrative law judge's dismissal of an allegation that a company rule against wearing hotel uniforms off company premises constituted an excessive impediment to union activity. The judge distinguished *Pepsi-Cola* on the basis that the rule therein was promulgated in response to a union organizing drive and specifically stated that employees could not engage in union activities while wearing company uniforms, factors not present in the case before him. Id. at 292–293.

Here, GM is a unionized company, the logo rule on its face applies to all employees, no evidence suggests it was motivated by antiunion considerations, and the Respondent has offered a bona fide reason for its promulgation. In these circumstances, I find the reasoning of the judge in *Flamingo Hilton-Laughlin* persuasive and conclude that the rule restricting use of GM's logo does not violate Section 8(a)(1).

II. Treat Everyone with Respect

The section states that offensive, demeaning, abusive or inappropriate remarks are as out-of-place online as they are offline. In general, work rules that prohibit employees from using offensive, demeaning, abusive, or other similar language in the workplace are not facially invalid under Section 8(a)(1) because employers have a legitimate interest in establishing a "'civil and decent work place,'" free of racial, sexual, and other harassment that can subject them to legal liability under State or Federal law. *Lutheran Heritage Village*, supra at 647, citing *Adtranz, ABB Daimler-Benz v. NLRB*, 253 F.3d 19 (D.C. Cir. 2001), denying enf. in part to 331 NLRB 291 (2000).

In *Palms Hotel & Casino*, 344 NLRB 1363, 1368 (2005), the Board found that the employer's policy, which prohibited conduct that had the effect of being injurious, offensive, or intimidating to coworkers or patrons, did not violate the Act since such conduct was not inherently entwined with Section 7 activity, and employees would view the rule as an expectation that they "comport themselves with general notions of civility and decorum in the workplace." Id. See also *Adtranz,* above (court found lawful prohibition against use of "abusive or threatening language to anyone.").

Other decisions have been similar. In *Hyundai America Shipping Agency, Inc.,* 357 NLRB No. 80 at slip op. 3 (2011), determined that a rule against "harmful gossip," which did not

mention managers, was not unlawful. In *Tradesmen International,* 338 NLRB 460, 460–462 (2002), a prohibition against "disloyal, disruptive, competitive, or damaging conduct" was held not to be reasonably construed as covering protected activity.

At a certain point, a rule regulating inappropriate conduct runs afoul of Section 8(a)(1) by being overly ambiguous. Thus, in *Sisters Food Group, Inc.,* 357 NLRB No. 168, slip op. at 3 (2011), the Board found unlawful a provision subjecting employees to discipline for the "inability or unwillingness to work harmoniously with other employees." The Board distinguished this from *Palm Hotel* and *Lutheran Heritage*, above, where the rules were "more clearly directed at unprotected conduct," concluding that the rule could encompass any disagreement or conflict among employees, including those related to discussions and interactions protected by Section 7. Ibid. See also *Flamingo Hilton-Laughlin,* 330 NLRB 287 (1999) (rule against "abusive or insulting language" unlawful).

In *Claremont Resort & Spa,* 344 NLRB 832, 832 (2005), the Board found that a rule prohibiting "negative conversations about associates and/or managers" violated Section 8(a)(1) because employees would reasonably construe the prohibition to bar them from discussing concerns about their managers that affect working conditions, thereby causing them to refrain from engaging in protected activities.

Here, GM's policy states that "offensive, demeaning, abusive, or inappropriate remarks are as out-of-place online as they are offline." The line between permissible and impermissible as far as vagueness is a fine one, but I believe that the descriptive adjectives used put this language in the category of permissible as per *Palm Hotel* and *Lutheran Heritage*. Further, as opposed to *Claremont Resort & Spa,* above, there is no mention of management or supervisors or any suggestion that employees be discouraged from discussing them.

Accordingly, I conclude that this section of the social media policy does not violate Section 8(a)(1).

III. Personal References on Social Media Sites

This provision explains that communications with coworkers would be inappropriate in the workplace are also inappropriate on-line and that employees should "think carefully about 'friending' coworkers . . . on external social media sites." Counsel for the Acting General Counsel is correct in arguing that this language is ambiguous. Nonetheless, the section speaks only of thought, has no reference to possible discipline, and does not require employees to engage in any kind of action. Thus, it is in the nature of advice or of a suggestion rather than a mandate since GM can monitor conduct but not thoughts.

Accordingly, I conclude that this section of the social media policy does not violate Section 8(a)(1).

IV. Internal Social Media

This provision instructs employees to report "unusual or inappropriate" internal social media activity. Policies that require employees to report harassment in general do not violate

Section 8(a)(1) when employees would not reasonably construe the policy to interfere with Section 7 activity. Thus, in *Standayne Automotive Corp.,* 345 NLRB 85, 86 (2005),vacated 520 F.3d 192 (2d Cir.2008), the Board applied the *Lutheran Heritage* standard to an employer statement prohibiting "[h]arassment of any type" and found that employees would not reasonably construe the statement to prohibit Section 7 activity. See also *Rivers Bend Health & Rehabilitation Service*, 350 NLRB 184, 187 (2007) , in which the Board upheld a policy that required employees to "report [harassment or threats] to management," finding that this was not tantamount to requiring employees to report protected activity and could not reasonably be construed as such.

In contrast, it is unlawful for an employer to ask employees to report if the are being harassed, intimidated or threatened into signing union authorization cards or supporting a strike. See *Arkema, Inc.,* 357 NLRB No. 103, slip op. at 4 (2011); *Eastern Maine Med. Center*. 277 NLRB 1374 (1985). In other words, when the reporting requirement specifically addresses union-related activities, or other protected activity, it runs afoul of Section 8(a)(1). See *Arkema,* 357 NLRB at slip op. 6 fn. 8, distinguishing *Standayne Automotive* and *River's Bend Health,* above, on that basis.

GM's policy requires employees to "report any unusual or inappropriate internal social media activity to the system administrator." On its face, the policy is a general one and not linked to employees' union or other protected activity. Based on the above precedent, I conclude that employees would not reasonably conclude that union or other protected activity would be the kind of activity that would fall under "unusual or inappropriate."

Accordingly, I conclude that this provision does not violate Section 8(a)(1).

Other Language in the Policy

GM has emphasized that the social media policy concludes with the statement that it will administer the policy in compliance with applicable laws, including Section 7 of the NLRA.

However, such a declaration will not shield an employer from the consequences of unlawfully prohibiting employee activity protected by the Act. In *Tower Industries,* 349 NLRB 1077, 1084 (2007), an employer was found to violate Section 8(a)(1) by distributing releases that stated employees agree not to "initiate, assist, or join any Wage Claims . . . unless . . . otherwise permitted by federal or state law including but not limited to the National Labor Relations Act." A similar result was reached regarding an overly-broad no-distribution rule in *Ingram Book Co.,* 315 NLRB 515, 516 (1994) ("To the extent any policy may conflict with state or federal law, the Company will abide by the applicable state or federal law."). As a final example, in *McDonnell Douglas Corp.*, 240 NLRB 794, 802 (1979), an overly-broad no-distribution rule that excepted the distribution of matter "protected by Section 7 of the National Labor Relations Act" was nonetheless found unlawful.

The thrust of these cases is that employees cannot be expected to know what conduct is protected under the Act and, as a result, may well choose to abstain from engaging in what is protected activity rather than risk engaging in unprotected activity and facing lawful discipline.

Therefore, I conclude that the concluding clause does not serve to cure the defects in the policy.

The policy starts with the statement that it is a restatement of existing policy being applied in the social media context, and the Respondent argues (Br. 4) that employees are therefore immediately on notice about the Company's expectations. However, such existing policy is not set out in the document, no specific references are provided, and requiring employees to ascertain the full scope of existing policy imposes a wholly untenable—if not impossible—burden on them. The predictable outcome is that employees will be discouraged from engaging in protected activity. Consequently, this prefatory language similarly will not serve to cure the flaws in the social media policy.

CONCLUSIONS OF LAW

1. The Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The following provisions in the Respondent's social media policy violate Section 8(a)(1) of the Act:

> Use Good Judgment About What You Share And How You Share
>
> . . . be sure that your posts are completely accurate and not misleading and that they do not reveal non-public company information on any site. . . . Non-public company information includes:
>
> - Any topic related to the financial performance of the company;. . . .
> - Information that has not already been disclosed by authorized persons in a public form; and
> - Personal Information about another GM employee, such as his or her . . . performance, compensation. . . .
>
> When in doubt about whether the information you are considering sharing falls into one of the above categories, DO NOT POST. Check with GM Communications or GM legal to see if it's a good idea. Failure to stay within these guidelines may lead to disciplinary action.
> . . .
>
> - . . . obtain permission, when quoting someone else. Make sure that any photos, music, video or other content you are sharing is legally shareable or that you have the owner's permission.
> - Get permission before posting photos, video [sic], quotes or personal information of anyone other than you online. . . .

REMEDY

Because I have found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act, including the following.

Where an employer's overbroad rule is maintained as a companywide policy, the Board generally orders the employer to post an appropriate notice at all of its facilities where the unlawful policy has been or is in effect. *Mastec Advanced Technolgies,*357 NLRB No. 17, slip op. at (2011); *Guardsmark, LLC,* 344 NLRB 809, 812 (2005). Further, the Board requires that the notice be transmitted electronically, such as by email and/or posting on an intranet or the internet, to employees if the employer customarily communicates to its employees in that fashion. *J. Picini Flooring,* 356 NLRB No. 9 (2010). I will so order.

Inasmuch as employees may have been disciplined pursuant to the provisions that I have found overly broad, I will order that any disciplines imposed pursuant thereto be rescinded, in accordance with the Board's decision in *The Continental Group, Inc.,* 357 NLRB No. 39, slip op. at 6 (2011). I will also order that any employees whose discipline resulted in their financial detriment be made whole for any loss of earnings and other benefits they may have suffered, computed on a quarterly basis as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest compounded daily, *Kentucky River Medical Center*, 356 NLRB No. 8 (2010), with an applicable rate of interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[4]

ORDER

The Respondent, General Motors, LLC, Detroit, Michigan, shall

1. Cease and desist from

(a) Maintaining any social media policy rules, including confidentiality rules, that unlawfully restrict employee's Section 7 rights, including their ability to discuss their wages, hours, and other terms and conditions of employment.

(b) Disciplining any employees for violation of any such social media policy rules.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

[4] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of the Board's Order, rescind, in writing, the rules described under the conclusions of law section.

(b) Make any disciplined employees described under the remedy section whole for any loss of earnings and other benefits suffered as a result of enforcement of the unlawful social media policy rules.

(c) Within 14 days from the date of the Board's Order, remove from its files any reference to such unlawful disciplines, and within 3 days thereafter notify the employees in writing that this has been done and that the disciplines will not be used against them in any way.

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its facility in Detroit, Michigan copies of the attached notice marked "Appendix."[5] Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places at all facilities where the unlawful policy has been or is in effect, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices should be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since January 1, 2011.

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

(g) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

[5] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

IT IS FURTHER ORDERED that the complaint be dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C. May 30, 2012.

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_____
Ira Sandron
Administrative Law Judge

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT maintain provisions in our social media policy, including confidentiality rules, that unlawfully restrict you in the exercise of the rights listed above, including your ability to discuss wages, hours, and other terms and conditions of employment.

WE WILL NOT issue you discipline because you violate any such unlawful rules.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL rescind provisions in our social media policy, including confidentiality rules, that unlawfully restrict you in the exercise of the rights listed above, including your ability to discuss wages, hours, and other terms and conditions of employment.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to disciplines issued to employees as a result of our enforcement of such unlawful rules, and WE WE WILL, within 3 days thereafter, notify employees in writing that this has been done and that the disciplines will not be used against them in any way.

WE WILL make employees whole for any loss of benefits they incurred as a result of any disciplines issued as result of our enforcement of such unlawful rules.

GENERAL MOTORS, LLC

(Employer)

Dated _____ By _____

(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

477 Michigan Avenue, Room 300, Detroit, MI 48226-2569

(313) 226-3200, Hours: 8:15 a.m. to 4:45 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (313) 226-3244.